

## APPENDIX I

# GLOSSARY OF TERMS IN LAW

The following words and phrases are those most frequently encountered in law by Masters-at-Arms and have special legal connotations. The list is by no means complete, nor is it intended as a substitute for an up-to-date law dictionary. Further, this glossary is designed solely as a ready reference for the meaning of certain terms. Where it has been necessary to explain a word or phrase in the language of or in relation to a rule of law, no attempt has been made to set forth a definitive or comprehensive statement of such rule of law.

**ABANDONED PROPERTY**— Property to which the owner has relinquished all rights, title, claims, and possession with intention of not reclaiming it or resuming ownership, possession, or enjoyment.

**ABET**— To encourage, incite, or set another on to commit a crime, Article 77, UCMJ.

**ACCESSORY AFTER THE FACT**— Any person subject to the Code who, knowing that an offense punishable by the Code has been committed, receives, comforts, or assists the offender in order to hinder or prevent the offender's apprehension, trial, or punishment. NOTE: Article 78, UCMJ, deals with accessories.

**ACCESSORY BEFORE THE FACT**— One who counsels, commands, procures, or causes another to commit an offense—whether present or absent at the commission of the offense. NOTE: Under Article 77, UCMJ, an accessory before the fact is a principal.

**ACCUSATION**— A formal charge against a person, to the effect that the person is guilty of a punishable offense, laid before a court having jurisdiction to inquire into the alleged crime.

**ACCUSED**— One who is charged with an offense under the Code.

**ACCUSER**— Any person who signs and swears to charges; any person who directs that charges normally be signed and sworn to by another; and any other person who has an interest other than an official interest in the prosecution of the accused.

**ACQUITTAL**— The legal and formal certification of the innocence of a person who has been charged with a crime; a deliverance or setting free a person from a charge of guilt.

**ACTIVE DUTY**— The status of being in the active federal service of any of the armed forces under a competent appointment or enlistment or pursuant to a competent muster, order, call, or induction.

**ACTUAL KNOWLEDGE**— A state wherein the person in fact knows of the existence of an order, regulation, fact, and so forth, in question.

**ADDITIONAL CHARGES**— New and separate charges preferred after others have been preferred against the accused while the original charges are still pending.

**ADJOURNMENT**— The putting off or postponing of a trial until a stated time or indefinitely; a cessation of the proceedings for a period extending beyond the same day.

**ADJUDICATE**— To determine whether a claim is proper and decide what amount, if any, should be paid the claimant.

**ADMINISTRATIVE BOARD**— A board appointed to render findings based on facts pertaining, or believed to pertain, in a case and to recommend retention, separation, or suspension of separation, and the reason for separation and the characterization of service or description of separation.

**ADMINISTRATIVE SEPARATION**— A discharge or release from active duty upon expiration of enlistment or required period of service, or before, by administrative means and not by a court-martial.

**ADMIRALTY**— That body of law and regulation dealing with civil maritime cases.

**ADMISSION**— A self-incriminatory statement falling short of a complete acknowledgement of guilt.

**AD VALOREM**— “According to value.” Ad valorem tax is a tax or duty upon the value of the article or thing subject to taxation.

**AFFIANT**— The person who makes and subscribes an affidavit.

**AFFIDAVIT**— A statement or declaration reduced to writing and confirmed by the party making it by an oath taken before a person who has authority to administer the oath.

**AGENT**— A person authorized by another to act for that person. One entrusted with another's business.

**AIDER AND ABETTOR**— One who shares the criminal intent or purpose of a perpetrator, and hence is liable as a principal, Article 77, UCMJ.

**ALIBI**— A defense that the accused could not have committed the offense alleged because the accused was somewhere else when the crime was committed.

**ALLEGATION**— The assertion, declaration, or statement of a party in a pleading of what the party expects to prove.

**ALLEGE**— To assert or state in a pleading; to plead in a specification.

**APPEAL**— A complaint to a superior court of an injustice done or error committed by an inferior court whose judgment or decision the court above is called upon to correct or reverse. See Appellate Review.

**APPELLANT**— The party who takes an appeal from one court or jurisdiction to another.

**APPELLATE REVIEW**— The examination of the records of cases tried by courts—martial by proper reviewing authorities, including, in appropriate cases, the convening authority, the Court of Military Review, the Court of Military Appeals, the U.S. Supreme Court, and the Judge Advocate General.

**APPREHENSION**— The taking of a person into custody.

**APPROVED FINDINGS OF AN ADMINISTRATIVE BOARD**— Final approval of the findings of an administrative board rests with the separation authority and, unless the separation authority modifies the findings and recommendation, approval of the boards recommendations as to characterization or separation, or both, constitutes approval of such findings and recommendations.

**ARBITRATION**— The act of determining a decision in a controversy by a disinterested third party.

**ARRAIGNMENT**— The reading of the charges and specification to the accused or the waiver of their reading, coupled with the request that the accused plead thereto.

**ARREST**— Moral restraint imposed upon a person by oral or written orders of competent authority limiting the person's personal liberty pending disposition of charges. Arrest is not imposed as punishment for an offense.

**ARREST IN QUARTERS**— A moral restraint limiting an officer's liberty, imposed as a nonjudicial punishment by a flag or general officer in command.

**ARTICLE 15**— The Article of the UCMJ that grants the power of a commander to impose nonjudicial punishment.

**ARTICLE 32 INVESTIGATION**— See Pretrial Investigation.

**ARTICLE 39a SESSION**— A session of a court-martial called by the military judge, either before or after assembly of the court, without the members of the court being present, to dispose of matters not amounting to a trial of the accused's guilt or innocence.

**ASPORTATION**— A carrying away; felonious removal of goods; refers to one of the ways in which larceny under Article 121, UCMJ, maybe committed.

**ASSAULT**— An attempt or offer with unlawful force or violence to do bodily harm to another, whether or not the attempt or offer is consummated, Article 128, UCMJ.

**ASSEMBLED**— A court is said to be assembled when its preliminary organization is complete, the members have gathered in the courtroom, and the presiding officer announces the court assembled.

**ATTEMPT**— An act, or acts, done with a specific intent to commit an offense under the Code, amounting to more than mere preparation, and tending but failing to effect the commission of such offense.

**ATTEST**— To signify by subscription of the signer's name that the signer has witnessed the execution of the particular instrument.

**ATTORNEY, POWER OF**— An instrument authorizing another to act as one's agent or attorney. The instrument by which authority of one person to

act in place and stead of another as attorney in fact is set forth.

**AUTHENTICATION**— An official statement certifying that a writing is true and accurate.

**AUTHENTICITY**— The quality of being genuine in character, which in the law of evidence refers to a piece of evidence actually being what it purports to be.

**BAD-CONDUCT DISCHARGE**— One of two types of punitive discharges that may be awarded an enlisted member as a court-martial sentence; designed as a punishment for bad conduct, rather than as a punishment for serious offenses of either a civil or military nature; may be awarded by GCM or SPCM.

**BAIL**— To procure the release of a person from legal custody, by undertaking that the person will appear at the time and place designated and submit to the jurisdiction and judgment of the court.

**BATTERY**— An assault in which the attempt or offer to do bodily harm is consummated by the infliction of that harm, Article 128, UCMJ.

**BEYOND A REASONABLE DOUBT**— The degree of persuasion based upon proof such as to exclude not every hypothesis or possibility of innocence, but any fair and rational hypothesis except that of guilt; not an absolute or mathematical certainty but a moral certainty.

**BIGAMY**— The criminal offense of willfully and knowingly contracting a second marriage (or going through the form of a second marriage) while the first marriage, to the knowledge of the offender, is still substituting and undissolved.

**BODILY HARM**— Any physical injury to or offensive touching of the person of another, however slight.

**BONA FIDE**— In good faith; actual; genuine.

**BREACH OF ARREST**— Going beyond the limits of arrest as set by orders, Article 95, UCMJ.

**BREACH OF PEACE**— An unlawful disturbance of the peace by an outward demonstration of a violent or turbulent nature, Article 116, UCMJ.

**BREAKING ARREST**— Going beyond the limits of arrest before being released by proper authority.

**BURGLARY**— The breaking and entering in the nighttime of the dwelling of another with intent to commit murder, manslaughter, rape, carnal knowledge, larceny, wrongful appropriation,

robbery, forgery, maiming, sodomy, arson, extortion, or assault, Article 129, UCMJ.

**BUSINESS ENTRY**— Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, made in the regular course of any business, profession occupation, or calling of any kind

**CAPITAL OFFENSE**— An offense for which the maximum punishment includes the death penalty.

**CAPTAIN'S MAST**— The term applied, through tradition and usage in the Navy and Coast Guard, to nonjudicial punishment proceedings.

**CARNAL KNOWLEDGE**— An act of sexual intercourse under circumstances not amounting to rape, by a person with a female who is not his wife, and who has not attained the age of 16, Article 120, UCMJ.

**CASE LAW**— Law obtained from cases that have been decided.

**CAVEAT EMPTOR**— "Let the buyer beware (or take care)."

**CHALLENGE**— A formal objection to a member of a court or the military judge continuing as such in subsequent proceedings. May be either (1) a challenge for cause—such objections based on a fact or circumstance that has the effect of disqualifying the person challenged from further participation in the proceedings or (2) peremptory challenge—such objection is permitted without grounds or basis, except that the military judge cannot be peremptorily challenged

**CHANGE OF VENUE**— Removal of a trial from one jurisdiction to another.

**CHARGE**— A formal statement of the Article of the UCMJ that the accused is alleged to have violated.

**CHARGE AND SPECIFICATION**— A description in writing of the offense that the accused is alleged to have committed; each specification, together with the charge under which it is placed, constitutes a separate accusation.

**CHARGE SHEET**— A two-page document, DD Form 58, that contains (1) information about the accused (2) the charges and specifications, (3) the preferring of charges and their referral to a summary, special, or general court-martial, and (4) in the case of a summary court-martial, the record of trial.

**CHIEF WARRANT OFFICER**— A warrant officer of the armed forces who holds a commission or warrant in warrant officer grades W-2 through W-4

**CIRCUMSTANTIAL EVIDENCE**— Testimony not based on actual personal knowledge or observation of the facts in controversy, but of other facts from which deductions are drawn, showing indirectly the facts sought to be proved.

**CLEMENCY**— Discretionary action by proper authority to reduce the severity of a punishment.

**CLOSED SESSIONS**— Those periods during a court-martial where the members or the military judge (in a judge alone case) is deliberating alone on findings and sentence.

**CODIFICATION**— Process of collecting and arranging the laws of a country or state into a code; for example, *U.S. Code*.

**COLLATERAL ATTACK**— An attempt to impeach or challenge the integrity of a court judgment in a proceeding other than that in which the judgment was rendered and outside the normal chain of appellate review.

**COLLISION**— Striking together of two objects, one of which may be stationary. The act of ships or vessels striking together. In its strict sense, collision means the impact of two vessels, both moving, and is distinguished from allision, which designates the striking of a moving vessel against one that is stationary.

**COMMAND**— (1) An order; (2) any demanding of another to do an act toward commission of a crime, Article 77, UCMJ.

**COMMANDING OFFICER**— A commissioned officer in command of a unit or units, an organization, or an area of the armed forces.

**COMMISSIONED OFFICER**— An officer of the naval service who holds a commission in an officer grade, chief warrant officer W-2, and above.

**COMMON TRIAL**— A trial in which two or more persons are charged with the commission of an offense or offenses that, although not jointly committed, were committed at the same time and place and are provable by the same evidence.

**COMPETENCY**— The presence of those characteristics, or the absence of those disabilities (for example, exclusionary rules), that renders a particular item of evidence fit and qualified to be presented in court.

**CONCURRENT JURISDICTION**— Jurisdiction that is possessed over the same parties or subject matter at the same time by two or more separate tribunals.

**CONCURRENT SERVICE OF PUNISHMENT**— Two or more punishments being served at the same time.

**CONFESSION**— An acknowledgement of guilt of an offense.

**CONFINEMENT**— The physical restraint of a person, imposed by either oral or written orders of competent authority, depriving a person of freedom.

**CONSECUTIVE SERVICE OF PUNISHMENT**— Two or more punishments being served in series, one after the other.

**CONSPIRACY**— A combination of two or more persons who have agreed to accomplish, by concerted action, an unlawful purpose or some purpose not in itself unlawful but by unlawful means, and the doing of some act by one or more of the conspirators to effect the object of that agreement.

**CONSTRUCTIVE ENLISTMENT**— A valid enlistment arising where the initial enlistment was void but the enlistee submits voluntarily to military authority, is mentally competent and at least 17 years old, receives pay, and performs duties.

**CONSTRUCTIVE KNOWLEDGE**— A state wherein a person is inferred to have knowledge of an order, regulation, or fact as a result of having a reasonable opportunity to gain such knowledge (for example, presence in an area where the relevant information was commonly available).

**CONTEMPT**— In military law, the use of any menacing words, signs, or gestures in the presence of the court, or the disturbance of its proceedings by any riot or disorder.

**CONTINUANCE**— The adjournment or postponement of a case to another day or time.

**CONTRABAND**— Items the possession of which is in and of itself illegal.

**CONVENING AUTHORITY**— The officer having authority to convene a court-martial and who convened the court-martial in question, or that officer's successor in command.

**CONVENING ORDER**— The document by which a court-martial is created, specifies the type of court,

details the members, and, when appropriate, the specific authority by which the court is created.

**CORPUS DELICTI**— “The body of a crime.” Facts or circumstances showing that the crime alleged has been committed by someone.

**COUNSELING**— Directly or indirectly advising or encouraging another to commit an offense, Article 77, UCMJ.

**COURT-MARTIAL**— military court convened under authority of the government and the UCMJ for trying and punishing offenses committed by members of the armed forces and other persons subject to military law.

**COURT-MARTIAL ORDER**— A published order announcing the results of a court-martial trial.

**COURT OF INQUIRY**— A formal administrative fact-finding body convened under the authority of Article 135, UCMJ, whose function is to search out, develop, analyze, and record all available information relative to the matter under investigation.

**COURT OF MILITARY APPEALS**— The highest appellate court established under the UCMJ to review the records of certain trials by court-martial, consisting of three judges appointed from civil life by the President, by and with the advice and consent of the Senate, for a term of 15 years.

**COURT OF MILITARY REVIEW**— An intermediate appellate court established by each Judge Advocate General to review the record of certain trials by court-martial-formerly known as Board of Review.

**CREDIBILITY OF A WITNESS**— A witness’ worthiness of belief.

**CROSS-EXAMINATION**— The examination of a witness at a trial or hearing, or at a deposition, by the party opposed to the one who produced him or her, upon his or her evidence given in the case-in-chief, to test its truth, to further develop it, or for other purposes.

**CULPABLE**— Deserving blame; involving the breach of a legal duty or the commission of a fault.

**CULPABLE NEGLIGENCE**— Culpable negligence is a degree of negligence greater than simple negligence. This form of negligence is also referred to as recklessness and arises whenever an accused recognizes a substantial unreasonable risk yet consciously disregards that risk.

**CUSTODY**— That restraint of free movement that is imposed by lawful apprehension.

**CUSTOM**— A practice that fulfills the following conditions: (a) it must be long continued; (b) it must be certain or uniform; (c) it must be compulsory; (d) it must be consistent; (e) it must be general; (f) it must be known; and (g) it must not be in opposition to the terms and provisions of a statute or lawful regulation or order.

**DAMAGE**— Any physical injury to property.

**DANGEROUS WEAPON**— A weapon used in such a manner that it is likely to produce death or grievous bodily harm.

**DECEIVE**— To mislead, trick, cheat, or to cause one to believe as true that which is false.

**DEFENSE COUNSEL**— The person who defends the accused in any proceeding.

**DEFERRAL**— Discretionary action by proper authority, postponing the running of the confinement portion of a sentence, together with a lack of any posttrial restraint.

**DEFRAUD**— To obtain, through misrepresentation, an article or thing of value and to apply it to one’s own benefit or to the use and benefit of another-either permanently or temporarily.

**DEMONSTRATIVE EVIDENCE**—Anything such as charts, maps, photographs, models, and drawings used to help construct a mental picture of a location or object that is not readily available for introduction into evidence.

**DEPOSITION**— The testimony of a witness taken out of court, reduced to writing, under oath or affirmation, before a person empowered to administer oaths, in answer to interrogatories (questions) and cross-interrogatories submitted by the parties desiring the deposition and the opposite party, or based on oral examination by counsel for the accused and the prosecution.

**DERELICTION IN THE PERFORMANCE OF DUTIES**— Willfully or negligently failing to perform assigned duties or performing them in a culpably inefficient manner.

**DESIGN**— On purpose, intentionally, or according to plan and not merely through carelessness or by accident; specifically intended.

**DESTROY**— Sufficient injury to render property useless for the purpose that it was intended, not necessarily amounting to complete demolition or annihilation.

**DETENTION OF PAY**— A less severe form of punishment than a forfeiture in that the amount detained is ultimately returned to the accused when the accused is separated from service, or within a specific period of 1 year or less.

**DIRECT EVIDENCE**— Evidence that tends directly to prove or disprove a fact in issue.

**DISCHARGE**— Complete severance from all naval status gained by the enlistment or induction concerned.

**DISCOVERY**— The right to examine information possessed by the opposing side before or during trial.

**DISHONORABLE DISCHARGE**— The most severe punitive discharge; reserved for those warrant officers (W-1) and enlisted members who should be separated under conditions of dishonor, after having been convicted of serious offenses of a civil or military nature warranting severe punishment; it may be awarded only by a GCM.

**DISMISSAL**— A court-martial punishment of separation from the service with dishonor. Only officers, commissioned warrant officers, cadets, and midshipmen may receive a dismissal, and it can only be awarded by a GCM. It is considered the equivalent of a dishonorable discharge.

**DISORDERLY CONDUCT**— Behavior of such a nature as to affect the peace time quiet of persons who may witness the same and who may be disturbed or provoked to resentment thereby.

**DISRESPECT**— Words, acts, or omissions that are synonymous with contempt and amount to behavior or language that detracts from the respect due the authority and person of a superior.

**DOCUMENTARY EVIDENCE**— Evidence supplied by writings and documents.

**DOMINION**— Control of property; possession of property with the ability to exercise control over it.

**DRUNKENNESS**— (1) As an offense under the UCMJ, intoxication that is sufficient sensibly to impair the rational and full exercise of the mental and physical Faculties that may be caused by liquor or drugs; (2) as a defense in rebuttal of the existence of a criminal element involving premeditation, specific intent, or knowledge, intoxication that amounts to a loss of

reason preventing the accused from harboring the requisite premeditation, specific intent, or knowledge; (3) as a defense to general intent offenses, involuntary intoxication that amounts to a loss of reason preventing the accused from knowing the nature of his or her act or the natural and probable consequence thereof.

**DUE PROCESS**— A course of legal proceedings according to those rules and principles that have been established in our system of jurisprudence for the enforcement and protection of private rights; such an exercise of the powers of the government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe.

**DURESS**— Unlawful constraint on a person whereby the person is forced to do some act that he or she otherwise would not have done.

**DYING DECLARATION**— A statement by a victim, concerning the circumstances surrounding his or her death, made while in extremis and while under a sense of impending death and without hope of recovery.

**ELEMENTS**— The essential ingredients of an offense that are to be proved at the trial; the acts or omissions that form the basis of any particular offense.

**ENTRAPMENT**— A defense available when actions of an agent of the government intentionally instill in the mind of the accused a disposition to commit a criminal offense, when the accused has no notion, predisposition, or intent to commit the offense.

**ENTRY LEVEL STATUS**— Upon enlistment, a member qualifies for entry level status during either (1) the first 180 days of continuous active military service or (2) the first 180 days of continuous active service after a break of more than 92 days of active service. A member of a Reserve component who is not on active duty or who is serving under a call or order to active duty for 180 days or less begins entry level status upon enlistment in a Reserve component.

**ERROR**— A failure to comply with the law in some way at some stage of the proceedings.

**EVIDENCE**— Any species of proof, or probative matter, legally presented at trial, through the medium of witnesses, records, documents, concrete objects, demonstrations, and so forth, for the purpose of inducing belief in the minds of the triers of fact.

**EXCLUSIONARY RULES**— This rule commands that where evidence has been obtained in violation of the search and seizure protections guaranteed by the U.S. Constitution, the illegally obtained evidence cannot be used at the trial of the defendant.

**EXCULPATORY**— Anything that would exonerate a person of wrongdoing.

**EXECUTION OF HIS OR HER OFFICE**— Engaging in any act or service required or authorized to be done by statute, regulation, or the order of a Superior.

**EXONERAT**— To clear from alleged fault or guilt.

**EX POST FACTO LAW**— A law passed after the occurrence of a fact or commission of an act that makes the act punishable, imposes additional punishment, or changes the rules of evidence to the disadvantage of a party.

**EXTENUATION**— Information that renders a crime less heinous than it would be without it and is presented in an effort to lessen the punishment that could be awarded at a court-martial or a nonjudicial punishment proceeding.

**EXTRA MILITARY INSTRUCTION**— Extra tasks assigned to one exhibiting behavioral or performance deficiencies for the purpose of correcting those deficiencies through the performance of the assigned tasks; also known as additional military duty or additional military instruction.

**EXTREMIS**— In extreme danger or need.

**FEIGN**— To misrepresent by a false appearance or statement; to pretend, to simulate, or to falsify.

**FINDINGS**— The determination of the issue as to whether an accused is guilty or innocent.

**FINE**— A type of court-martial punishment in the nature of a pecuniary judgment against an accused, which, when ordered executed, makes him or her immediately liable to the United States for the entire amount of money specified.

**FORFEITURE OF PAY**— A type of court-martial or nonjudicial punishment depriving the accused of all or part of the accused's pay.

**FORMER JEOPARDY**— A defense in bar of trial that no person will be tried for the same offense by the same sovereign a second time without his or her consent; also known as double jeopardy.

**FORMER PUNISHMENT**— A defense in bar of trial that no person may be tried by court-martial for a minor offense for which punishment under Article 15, UCMJ, has been imposed.

**FORMER TESTIMONY**— Testimony of a witness given in a civil or military court at a former trial of the accused, or given at a formal pretrial investigation of an allegation against the accused, in which the issues were substantially the same.

**FRISK**— Contact of the outer clothing of a person to detect by the sense of touch whether a concealed weapon is being carried.

**GENERAL COURT-MARTIAL**— The highest trial court within the military judicial system.

**GENERAL DISCHARGE**— An administrative discharge given to military personnel who do not qualify for an honorable discharge.

**GRANT OF IMMUNITY**— A promise of immunity from prosecution in return for courtroom testimony.

**GRIEVOUS BODILY HARM**— A serious bodily injury; does not include minor injuries, such as a black eye or a bloody nose, but does include fractured or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other serious bodily injuries.

**GROSS NEGLIGENCE**— A wanton, careless, and reckless disregard of the rights and safety of others; an utter indifference to the consequences of one's actions; a total abandonment of the standard of reasonable care coupled with a wanton disregard for the safety of others; that degree of negligence that is substantially higher in magnitude than simple inadvertence, but falls short of intentional wrong.

**HABEAS CORPUS**— "You have the body." An order from a court of competent jurisdiction that requires the custodian of a prisoner to appear before the court to show cause why the prisoner is confined or detained.

**HARMLESS ERROR**— An error of law that does not materially prejudice the substantial rights of the accused.

**HEARSAY**— An assertive statement, or conduct, that is offered in evidence to prove the truth of the assertion, but that was not made by the declarant while a witness before the court in the hearing in which it is offered.

**IMPROVIDENT PLEA**— A plea of guilty that cannot be accepted if (1) the presiding officer is not

satisfied that the accused understands the meaning and effect of his or her pleas, or (2) the elements of the offense have not been admitted, or (3) the accused is not convinced of his or her own guilt.

**INCAPACITATION**— The physical state of being unfit or unable to perform properly.

**INCONTINENCE**— (1) Want of chastity; Indulgence in unlawful carnal connection; (2) Unrestrained; uncontrolled; incapable of holding back; (3) Incapable of controlling the excretory functions.

**INCULPATORY**— Anything that implicates a person in a wrongdoing.

**INDECENT**— An offense to common propriety; offending against modesty or delicacy; grossly vulgar or obscene.

**INDIVIDUAL MILITARY COUNSEL**— Counsel requested specifically by the accused or respondent to represent them before a court-martial or administrative board instead of the appointed counsel.

**INFERENCE**— A fact deduced from another fact or facts shown by the state of the evidence.

**INFORMANT**— A person who has furnished information resulting in an investigation of a possible violation of law to a person whose official duties include the discovery, investigation, or prosecution of a case.

**IN LOCO PARENTIS**— “in place of a parent.” Used to signify that a person other than the parent exercises rights and responsibilities over a child.

**INSANITY**— See Mental Capacity and Mental Responsibility.

**INSPECTION**— An official examination of persons or property to determine the fitness or readiness of a person, organization, or equipment, not made with a view to any criminal action.

**INTENTIONALLY**— Deliberately and on purpose; through design, or according to plan, and not merely through carelessness or by accident.

**INTERROGATION**— In criminal law, the process of questions propounded by police to persons arrested or suspected to seek solutions of crime.

**IPSO FACTO**— “By the very fact itself.”

**JOINT OFFENSE**— An offense committed by two or more persons acting together in pursuance of a common intent.

**JOINT TRIAL**— The trial of two or more persons charged with committing a joint offense.

**JURISDICTION**— The power of a court to hear and decide a case and to award any appropriate punishment.

**KNOWINGLY**— With knowledge; consciously, intelligently.

**LASCIVIOUS**— Tending to excite lust; obscene; relating to sexual impurity; tending to deprave the morals with respect to sexual relations.

**LEGAL ADVISOR**— A lawyer, uniformed or civilian, under the professional supervision of either the Judge Advocate General or General Counsel of the Navy, certified under or otherwise meeting the professional requirements of Article 27(b), UCMJ.

**LESSER INCLUDED OFFENSE**— An offense necessarily included in the offense charged; an offense containing some but not all of the elements of the offense charged, so that if one or more of the elements of the offense charged are not proved, the evidence may still support a finding of guilty of the included offense,

**LEWD**— Lustful or lecherous; incontinence carried on in a wanton manner.

**MATTER IN AGGRAVATION**— by circumstance attending the commission of a crime that increases its enormity.

**MATTER IN EXTENUATION**— Any circumstance serving to explain the commission of the offense, including the reasons that actuated the accused but not extending to a legal justification.

**MATTER IN MITIGATION**— Any circumstance having for its purpose the lessening of the punishment to be awarded by the court and the furnishing of grounds for a recommendation for clemency.

**MENTAL CAPACITY**— The ability of the accused at the time of trial to understand the nature of the proceedings against him or her and to conduct or cooperate intelligently in his or her defense.

**MENTAL RESPONSIBILITY**— The ability of the accused at the time of the commission of an offense to appreciate the nature and quality of the wrongfulness of his or her acts.

**MILITARY DUE PROCESS**— Due process under protections and rights granted military personnel by the *Constitution* or laws enacted by Congress.



**MILITARY JUDGE**— A commissioned officer, certified as such by the respective Judge Advocates General, who presides over all open sessions of the court-martial to which he or she is detailed.

**MILITARY RECORD**— An individual's overall performance record while a member of the naval and military services of the United States including personal conduct.

**MINOR OFFENSE**— An offense for which confinement for less than 1 year is authorized; generally it is also misconduct not involving moral turpitude or any greater degree of criminality than is involved in the average offense tried by summary court-martial.

**MISTRIAL**— Discretionary action of the military judge, or the president of a special court-martial without a military judge, in withdrawing the charges from the court where such action appears necessary in the interest of justice because of circumstances arising during the proceedings that cast substantial doubt upon the fairness of the trial.

**MITIGATION**— Action by proper authority reducing punishment awarded at NJP or by court-martial.

**MORAL TURPITUDE**— An act of baseness, vileness, or depravity in private or social duties, which a man owes to fellowmen or to society in general, contrary to the accepted and customary rule of right and duty between man and man.

**MOTION TO DISMISS**— A motion raising any defense or objection in bar of trial.

**MOTION TO GRANT APPROPRIATE RELIEF**— A motion to cure a defect of form or substance that impedes the accused in properly preparing for trial or conducting his or her defense.

**MOTION TO SEVER**— A motion by one or more to two co-accused that they be tried separately from the other or others.

**NAVET**— A prior service veteran whose last tour of active duty or active duty for training was in the USN or USNR, who has been discharged or released for more than 2 hours, and who has completed a minimum of 180 consecutive days of active duty.

**NEGLECT**— Omission or failure to do an act or perform a duty due to want of due care or attention.

**NEGLIGENCE**— Unintentional conduct that falls below the standards established by law for the protection of others against unreasonable risk of

harm. The failure of a person to exercise the care that a reasonably prudent person would exercise under similar circumstances; something that a reasonable person, guided by those ordinary considerations that ordinarily regulate human affairs, would or would not do.

**NONJUDICIAL PUNISHMENT**— Punishment imposed under Article 15, UCMJ, for minor offenses, without the intervention of a court-martial.

**NONPUNITIVE MEASURES**— Those leadership techniques, not a form of informal punishment, that may be used to further the efficiency of a command

**OATH**— A formal external pledge, coupled with an appeal to the Supreme Being, that the truth will be stated

**OBJECTION**— A declaration to the effect that the particular matter or thing under consideration is not done or admitted with the consent of the opposing party, but is by him or her considered improper or illegal, and referring the question of its propriety or legality to the court.

**OFFICE HOURS**— The term applied through tradition and usage in the Marine Corps to nonjudicial punishment.

**OFFICER**— Any commissioned or warrant officer of the armed forces, warrant officer W-1, and above.

**OFFICER IN CHARGE**— A member of the armed forces designated as such by appropriate authority.

**OFFICIAL RECORD**— A writing made as a record of a fact or event, whether the writing is in a regular series of records or consists of a report, finding, or certificate, and made by any person within the scope of his or her official duties provided those duties include a duty to know, or to ascertain through appropriate and trustworthy channels of information, the truth of the fact or event, and to record such fact or event.

**ON DUTY**— (As used in UCMJ, Article 112). In the exercise of duties of routine or detail, in garrison, at a station, or in the field; does not relate to those periods when, no duty being required of military personnel by order of regulations, they occupy the status of leisure known as "off duty" or "on liberty."

**OPINION OF THE COURT**— A statement by a court of the decision reached in a particular case, expounding the law as applied to the case, and detailing the reasons upon which the decision is based.

**ORAL EVIDENCE**— The sworn testimony of a witness received at trial.

**OSVET**— A prior service veteran whose last tour of active duty was in a branch of service other than Navy, has been discharged or released more than 2 hours, and has completed a minimum of 180 consecutive days' active duty.

**PAST RECOLLECTION RECORDED**— Memorandum prepared by a witness, or read by him or her and found to be correct, reciting facts or events that represent his or her past knowledge possessed at a time when his or her recollection was reasonably fresh as to the facts or events recorded.

**PER CURIAM**— "By the court." A phrase used in the report of the opinion of a court to distinguish an opinion of the whole court from an opinion written by any one judge.

**PER SE**— Taken alone; in and of itself; inherently.

**PERPETRATOR**— One who actually commits the crime, either by his or her own hand, by an animate or inanimate agency, or by an innocent agent.

**PLEADING**— The written formal indictment by which an accused is charged with an offense; in military law, the charges and specifications.

**PLEAS**— The accused's response to each charge and specification.

**POSSESSION**— Actual physical control and custody over an item of property.

**PREFERRAL OF CHARGES**— The formal accusation against an accused by an accuser signing and swearing to the charges and specifications.

**PREJUDICIAL ERROR**— An error of law that materially affects the substantial rights of the accused and requiring corrective action.

**PRELIMINARY INQUIRY**— The initial investigation of a reported or suspected violation of the UCMJ.

**PRESIDENT OF A COURT-MARTIAL**— The detailed senior member in rank present at the trial.

**PRESIDING OFFICER**— In a special court-martial without a military judge, it is the president of the court; in a court-martial with a military judge, the presiding officer is the military judge.

**PRESUMPTION**— A fact that the law requires the court to deduce from another fact or facts shown by the state of the evidence unless that fact is overcome by other evidence before the court.

**PRETRIAL AGREEMENT**— An agreement offering the accused to plead guilty to one or more specifications in exchange for a limit on some type of punishment.

**PRETRIAL INVESTIGATION**— An investigation pursuant to Article 32, UCMJ, that is required before convening a GCM, unless waived by the accused.

**PRIMA FACIE CASE**— Introduction of substantial evidence that, together with all proper inferences to be drawn therefrom and all applicable presumptions, reasonably tends to establish every essential element of an offense charged or included in any specification.

**PRINCIPAL**— (1) One who aids, abets, counsels, commands, or procures another to commit an offense that is subsequently perpetrated in consequence of such counsel, command, or procuring, whether the individual is present or absent at the commission of the offense; (2) the perpetrator.

**PRIOR ENLISTMENT OR PERIOD OF SERVICE**— Service in any component of the armed forces, including the Coast Guard, that culminated in the issuance of a discharge certificate or certificate of service.

**PROBABLE CAUSE**— (1) For apprehension, a reasonable grounds for believing that an offense has been committed and that the person apprehended committed it; (2) for pretrial restraint, reasonable grounds for believing that an offense was committed by the person being restrained; and (3) for search, a reasonable grounds for believing that items connected with criminal activity are located in the place or on the person to be searched.

**PROCEDURAL LAW**— The rules of pleading and practice by which rights are accorded and enforced.

**PROCESSING COMMAND**— The parent command to which a member is permanently assigned has primary responsibility for administrative processing.

**PROVOKING**— Tending to incite, irritate, or enrage another.

**PROXIMATE CAUSE**— That which, in natural and continuous sequence, unbroken by an efficient intervening cause, produces a result, and without which the result would not have occurred.

**PROXIMATE RESULT**— A reasonably foreseeable result ordinarily following from the lack of care complained of, unbroken by any independent cause.

**PUNITIVE ARTICLES**— Articles 78 and 80 through 134, UCMJ, that generally describe various crimes and offenses and state how they may be punished.

**PUNITIVE DISCHARGE**— A discharge imposed as punishment by a court-martial, either a bad-conduct discharge or a dishonorable discharge.

**QUALIFIED COUNSEL**— Counsel qualified under Article 27(b), UCMJ, and who does not have any direct responsibility for advising the convening authority or separation authority on the proceedings involving the respondent.

**RAPE**— An act of sexual intercourse with a female, not the accused's wife, done by force and without her consent.

**REAL EVIDENCE**— Any physical object offered into evidence at trial.

**RECESS**— A short period of time during which a trial is not in progress.

**RECKLESSNESS**— An act or omission exhibiting a culpable disregard for the foreseeable consequences of that act or omission; a degree of carelessness greater than simple negligence.

**RECONSIDERATION**— The action of the convening authority in returning the record of trial to the court for renewed consideration of a ruling of the court dismissing a specification on motion, where the ruling of the court does not amount to a finding of not guilty.

**REFERRAL OF CHARGES**— The action of a convening authority in directing that a particular case be tried by a particular court-martial previously created.

**RELEASE FROM ACTIVE DUTY**— Termination of active duty status and transfer or reversion to a Reserve component not on active duty including transfer to the Individual Ready Reserve.

**RELEVANCY**— That quality of evidence that renders it properly applicable in proving or disproving any matter in issues; a tendency in logic to prove or disprove a fact that is in issue in the case.

**REMEDIAL ACTION**— Action taken by proper reviewing authorities to correct an error or errors in the proceedings or to offset the adverse impact of an error.

**REMISSION**— Action by proper authority interrupting the execution of a punishment and canceling out the punishment remaining to be served, while not restoring any right, privilege, or property already affected by the executed portion of the punishment.

**REPROACHFUL**— Censuring, blaming, discrediting, or disgracing of another's life or character.

**RESISTING APPREHENSION**— An active resistance to the restraint attempted to be imposed by the person apprehending.

**RESPONDENT**— A member who has been notified that action has been initiated to separate the member.

**RESTRICTION**— Moral restraint imposed as punishment, or pretrial restraint upon a person by oral or written orders limiting him or her to specified areas of a military command, with the further provision that he or she will participate in all military duties and activities of his or her organization while under such restriction.

**REVISION**— A procedure to correct an apparent error or omission or improper or inconsistent action of a court-martial with respect to a finding or a sentence.

**SEARCH**— A quest for incriminating evidence.

**SEIZURE**— To take possession of forcibly, to grasp, to snatch, or to put into possession.

**SELF-DEFENSE**— The use of reasonable force to defend oneself against immediate bodily harm threatened by the unlawful act of another.

**SELF-INCRIMINATION**— The giving of evidence against oneself that tends to establish guilt of an offense.

**SENTENCE**— The punishment awarded an accused who is found guilty of an offense by a court-martial.

**SEPARATION**— A general term that includes discharge, release from active duty, transfer to the Fleet Reserve or Retired List, release from custody and control of the military services, transfer to the Individual Ready Reserve, and similar changes in active or Reserve status.

**SEPARATION AUTHORITY**— The Chief of Naval Personnel is authorized to take final action with respect to the specified types of separation, or any officer so designated by the Chief of Naval Operations. The Secretary of the Navy is separation authority for release from active duty of member of the Reserve components who are within 2 years of eligibility for retirement or retainer pay. The

separation authority for active duty members being involuntarily separated who have 18 years or more service is the Chief of Naval Operations.

**SERIOUS OFFENSE**— Offenses under the UCMJ for which a punitive discharge is authorized by the *Manual for Courts-Martial*.

**SET ASIDE**— Action by proper authority voiding the proceedings and the punishment awarded and restoring all rights, privileges, and property lost by virtue of the punishment imposed

**SIMPLE NEGLIGENCE**— The absence of due care; for example, an actor omission by a person who is under a duty to use due care that exhibits a lack of that degree of care for the safety of others that a reasonably prudent person would have exercised under the same or similar circumstances.

**SOLICITATION**— Any statement, oral or written, or any other act or conduct, either directly or through others, that may reasonably be construed as a serious request or advice to commit a criminal offense.

**SPECIAL COURT-MARTIAL**— The intermediate of the three types of court-martial.

**SPECIFICATION**— A formal statement of specific acts and circumstances relied upon as constituting the offense charged.

**SPONTANEOUS EXCLAMATION**— An utterance concerning the circumstances of a startling event made by a person while he or she was in such a condition of excitement, shock, or surprise, caused by his or her participation in or observation of the event, as to warrant a reasonable inference that he or she made the utterance as an impulsive and instinctive outcome of the event, and not as a result of deliberation or design.

**STAFF JUDGE ADVOCATE**— A certified military lawyer attached to the staff of a convening or supervisory authority who exercises general court-martial jurisdiction.

**STATUTE OF LIMITATIONS**— The rule of law that, unless waived, establishes the time within which an accused must be charged with an offense to be tried successfully.

**STIPULATION**— An agreement between the trial and defense counsel, to which the accused agrees, as to the existence or nonexistence of any fact or the content of the testimony that an absent witness

would give if he or she were present in the proceedings.

**STRAGGLE**— To wander away, to rove, to stray, to become separated from, or to lag or linger behind.

**STRIKE**— To deliver a blow with anything by which a blow can be given.

**SUBPOENA**— A formal written instrument or legal process that serves to summon a witness to appear before a certain tribunal and to give testimony.

**SUBPOENA DUCES TECUM**— A formal written instrument or legal process that commands a witness who has in his or her possession or control some documents or evidentiary object that is pertinent to the issues of a pending controversy to produce it before a certain tribunal.

**SUBSCRIBE**— To write one's signature on a written instrument as an indication of consent, approval, or attestation.

**SUBSTANTIVE LAW**— That portion of the body of law that contains rights and duties and regulations of the government.

**SUMMARY COURT-MARTIAL**— The lowest of the three types of court-martial.

**SUPERIOR COMMISSIONED OFFICER**— A commissioned officer who is superior in rank or command.

**SUPERVISORY AUTHORITY**— An officer exercising general court-martial jurisdiction who acts as reviewing authority for SCM and SPCM records after the convening authority has acted.

**SUSPECT**— A person who is suspected of a crime but who has not been formally charged with its commission by the preferral of charges.

**SUSPENSION**— Action by proper authority to withhold the execution of a punishment for a probationary period pending good behavior on the part of the accused.

**TESTIMONY**— Statements made by a witness, under oath, before a court or hearing.

**THREAT**— An avowed present determination or intent to injure the person, property, or reputation of another presently or in the future.

**TOLL**— To suspend or interrupt the running of.

**TORT**— A private of civil wrong or injury committed against a person or property and is independent of any contract.

**TRIAL COUNSEL**— The person who prosecutes a case in the name of the government.

**TRUE OWNER**— The person who, at the time of the taking, obtaining, or withholding of property, had the superior right to possession of the property involved in the light of all conflicting interests therein involved in the particular case.

**TYPE WARRANTED BY SERVICE RECORD DISCHARGE**— Characterization of service is determined by the final average in performance and conduct marks and the final average of the marks in personal behavior.

**USAGE**— A general habit, mode, or course of procedure.

**UTTER**— To make any use of, or attempt to make any use of, an instrument known to be false by representing, by words or actions, that it is genuine.

**VERBATIM**— In the exact words, word for word.

**VOIR DIRE**— Preliminary examination of court members to determine their competency to sit on the court.

**WAIVER**— A voluntary or intentional giving up of a known right.

**WANTON**— Behavior of such a highly dangerous and inexcusable character as to exhibit a callous indifference or total disregard for the probable consequences to the personal safety or property of other persons; heedlessness.

**WILLFUL**— Deliberate, voluntary, and intentional, as distinguished from acts committed through inadvertence, accident, or ordinary negligence.

**WRONGFUL**— Contrary to law, regulation, lawful order, or custom.



## **APPENDIX II**

# **METHODS OF TRANSMITTAL FOR ITEMS OF EVIDENCE**

Listed in this appendix are some common items the Master-at-Arms (MA) may have to submit through the mail to a criminal investigations (CI) lab.

All evidence mailed to a lab must be sent "Registered, Return Receipt Requested."

EVIDENCE HANDLING, MARKING, AND PACKING					
This chart is not intended to be all-inclusive. If evidence is not found listed herein, consult the specimen list for an item most similar in nature and submit accordingly or contact the appropriate laboratory for advice.					
ITEM	HANDLING	MARKING	QUANTITY NEEDED	PRESERVATION AND PACKING	INVESTIGATIVE VALUE
<u>Rope, twine, or cordage</u>	Handle small pieces with tweezers. Avoid damage to large pieces by transferring carefully to the proper container.	Mark on tag or container all pertinent data.	All of specimen. One foot of original.	Place in envelope or evidence bag if small enough; if not, wrap securely.	Used to compare with rope, twine, or cordage used in commission of crime.
<u>Tools</u>	Handle by side of tool after tool has been examined for latent prints.	Mark on side of tools. Do not mark on face of tool. Use string tag with all pertinent data.	All tools. No standard needed.	Place in evidence bag. Prevent damage of the tools.	Used to compare with tool marks.
<u>Tool marks</u>	Cover tool mark with soft paper to avoid damage to the mark.	When tool marks can be transferred to laboratory unit, inscribe name and date on object containing tool marks. Do not mark.	Complete tool marks. Suspected tool, when available.	Keep from contaminating the mark.	Used for comparison purposes.
<u>Safe insulation and soil samples</u>	For a summary on handling safe insulation and soil samples, see chapter 16.	Label outside of container with pertinent data.	All of questioned specimen. Up to 4 ounces for standard.	Packed in sealed container large enough to accommodate volume.	Used for comparison purposes.
<u>Arson or fire bomb</u> 1. <u>Liquid</u>	Leave in original container. Check for latent prints. Remove liquid from original container. Check containers for latent prints.	Place a label on the outside of container indicating the place where specimen was taken, date, time, complaint number, and name of submitting investigator.	Up to 4 ounces. No standard needed.	Place in 4-ounce metal container and seal securely. To ensure chain of custody, place a seal of masking tape or packaging tape over top and have submitting investigator sign.	Used to determine properties and the fluid, which may be used as inventive leads.
2. <u>Nonliquid; i.e., ashes and debris taken from point of origin; all mechanical or electrical devices that may have been used to ignite the fire.</u>	Use tweezers for small particles. Handle with extreme care. Use piece of stiff paper to slide under ash.	Same as above.	All of specimen if small. Representative sample if large.	Place the specimen in a clean, unused, unlined paint can. Handle as carefully as possible to keep specimen intact.	Used to determine elements used to create the fire, thereby possibly finding a modus operandi.



EVIDENCE HANDLING, MARKING, AND PACKING					
ITEM	HANDLING	MARKING	QUANTITY NEEDED	PRESERVATION AND PACKING	INVESTIGATIVE VALUE
Blood 1. Liquid Known samples	For a summary on the techniques for handling blood samples, see preservation and packing column.	Use adhesive tape outside of test tube. Name of donor, date taken, doctor's name, name or initials of submitting agent, and case number.	5cc. in sterile test tube. No standard needed.	Sterile test tube only. No preservation for grouping test. Wrap in cotton or soft paper.	Used to determine blood group and content of alcohol in blood.
Questioned samples	Same as above.	Same as above.	Up to 5cc. No standard needed.	Collect by using eyedropper or clean spoon. When possible use a clean test tube, otherwise transfer blood to a nonporous surface (glass). Allow to dry and submit in pillbox that can be sealed.	Used to determine blood group and nature of blood (whether human or animal).
Clothing (Contaminated)	Take care not to loosen any trace materials from the garment.	Use string tag and label. All pertinent data must be furnished.	All clothing. No standard needed.	Pack <u>only</u> when dry. Do not cut through contaminated portion of clothes. Each article will be wrapped individually in a clean dry evidence bag. Information relative to the offense must be included on the evidence bag.	Used to determine what use contamination is; e.g., blood, powder burns, semen, etc., and what it indicates.
Documents (Letters, notes, checks, etc.)	Use tweezers. Do not place tweezers over any obvious smudge. Protect for latent prints. Do not staple or paper clip together. Use paper envelopes larger than the document whenever possible.	Place initial and date on outside of the sealed envelope or other container used to package the document. Document should be marked by initials or identifying mark in an area that will not destroy evidentiary value.	All documents. No standard needed.	Document should be handled, folded, and marked as little as possible. If folding cannot be avoided, the fold should be along old lines. Place in proper enclosure envelope and seal with transparent tape. Flap side of envelope should contain title of case, description of contents, complaint number, and submitting investigator's name.	Used to determine possible identity of authorship and to check for fingerprints, alterations, erasure, or forgery.
Fibers	Fibers are usually obtained through vacuum sweeping with a special filter attachment.	Label outside of seal container.	All fibers. Original garment or cloth, if possible.	Pack in folded paper and place in envelope or pillbox. Seal tightly to prevent loss.	Used to compare fiber at scene with suspect material.

EVIDENCE HANDLING, MARKING, AND PACKING					
ITEM	HANDLING	MARKING	QUANTITY NEEDED	PRESERVATION AND PACKING	INVESTIGATIVE VALUE
Fingerprints 1. Latent Lifts	For a summary on the technique for handling latent lifts, see preservation and packing column.	On the back of the card to which the prints are transferred. All pertinent information must be furnished.	All latent prints. The names of all law enforcement personnel at the scene and elimination prints of all people who have legal access to the area or object in question.	The print must be transferred from the object to a nonporous card. The card must be sealed into a fingerprint envelope.	Used to identify positively with who was at the scene.
2. Paper for chemical	Paper should be handled as little as possible. Do not fold. Roll only when absolutely necessary. Use tweezers if possible or cotton gloves.	Mark as little as possible (i.e., initials). All other pertinent information on the evidence container.	Same as above.	Same as Documents.	Used to determine if latent prints are present.
Firearms 1. Handgun	Handle only by the knurled portion of the handgrips until processed for fingerprints.	Scratch initials or marks of identification in an inconspicuous place on the frame. Do not mark an "X." Do not mark on parts of weapon that can be easily removed.	All. No standard needed.	Attach string tag with pertinent information included on it. Place in heavy paper envelope. <b>NEVER SUBMIT A LOADED WEAPON!</b>	Used to determine if weapon was fired or for firearms identification.
2. Rifle/shotgun	Handle by the trigger guard edge and the serrated parts of the stock and forepiece as purchase points.	Same as above.	All. No standard needed.	Attach string tag with pertinent information included.	Same as above.
Ammunition 1. Bullets fired	Use tweezers with taped ends. Avoid damage to rifling marks on the circumference.	Mark with initials either on base or nose of bullet. Do not mark on sides.	All fired bullets. No standard needed.	Wrap in soft paper tissue and place in small pillbox. Box should be marked with pertinent information.	Used to determine make, caliber, and type of firearm from which bullet could have been disengaged.
2. Bullet and cartridge case	Use tweezers with taped ends. Avoid damage to the case or the bullet.	Mark with initials, date, and numbers that correspond with chambers, if taken from a revolver, on the nose of the bullet.	All bullets. No standard needed.	Same as above.	Used for comparison purposes.

EVIDENCE HANDLING, MARKING, AND PACKING					
ITEM	HANDLING	MARKING	QUANTITY NEEDED	PRESERVATION AND PACKING	INVESTIGATIVE VALUE
3. Cartridge case (fired)	Pick up at the open end with tweezers. Avoid scratching.	Mark on the inside of the casing, or on the outside as near the front as possible.	All cases. No standard needed.	Same as above.	Used to determine make, caliber, and type of firearms. Also for future comparisons if weapons not recovered.
4. Shot shells (fired)	Same as above.	Mark on side of brass head of shell using agent's initials. Do not scratch, nick, mar, or mutilate base of shell.	All shells. No standard needed.	Roll individually in paper and place in paper envelope.	Used to determine the gauge of gun and for comparison of weapon marks.
5. Shot pellets	Use tweezers with taped ends. Avoid damage to rifling.	Place pellets in small pillbox, seal box, and mark properly.	All pellets. No standard needed.	Same as Methods of Marking.	The size of the shot may be consistent with other ammunition found on suspect.
6. Wadding	Use tweezers, avoid any damage to the wadding.	Mark with ink by inscribing initials of recovering investigators.	All wadding. No standard needed.	Place in paper envelope.	Size of shot and gauge designation of arm firing wads.
<u>Glass</u> 1. Fragments	Use fingers on the edge of the larger piece. Do not touch flat surfaces. Do not grasp over obvious smudges. Process for latent prints where indicated.	Mark container with name of submitting agent and other pertinent data. Separate questioned and known pieces.	All fragments. No standard needed.	Wrap each piece in cotton or soft pack to prevent shifting and further breakage.	Used to identify fragments taken from scene of crime. Used to determine direction of break force.
2. Particles	Use tweezers for pieces too small for fingers.	Same as above.	All particles. Three-inch piece of broken item as standard.	Place in pillbox, seal, and protect from further breakage.	Same as above.
<u>Hair</u>	Carefully remove hairs from crime scene with a pair of tweezers.	Same as above.	All portions of hair found at scene. Twenty or more pulled hairs when removed from a person.	Fold clean sheet of paper, place hair in fold, and place in envelope.	Used to determine color, structure, etc.

EVIDENCE HANDLING, MARKING, AND PACKING					
ITEM	HANDLING	MARKING	QUANTITY NEEDED	PRESERVATION AND PACKING	INVESTIGATIVE VALUE
<u>Impressions</u> 1. Footprints 2. Tire prints 3. Small impressions	For a summary of the technique for handling impressions, see chapter 7.	Photograph the impression and include a ruler in the picture to keep in proper perspective. Label back of picture with pertinent data.	Enough photographs to show full impression from all angles.	Place in property envelope and seal.	Used for comparison purposes.
<u>Liquid</u> Poison, acid, and others	Leave in original container. Examine container for latent prints.	On outside of container, place a label with pertinent information.	If container adequate, all of specimen. Otherwise, up to 4 ounces.	If in glass container, pack absorbent material around it and place in strongbox.	Used to determine the actual content of the fluid.
<u>Liquor</u>	Same as above.	Inscribe identifying mark on metal can or label with pen.	All of specimen. No standard needed.	Place in paper evidence bag and label appropriately.	Used to determine alcoholic content.
<u>Suspected Narcotics and Dangerous Drugs</u>	Leave in original container. Examine container for latent prints.	Place label with pertinent data on outside of container.	All of specimen. No standard needed.	Pack absorbent material around all glass to prevent breakage. Label "Fragile."	May show the substance is not narcotic or dangerous or will identify the drug recovered.
Tablets, powder, and solids.	Use tweezers or small brush to transfer any particles to the proper container.	Same as above.	All of specimen. No standard needed.	Place in properly sealed pillbox or adequate to prevent loss.	
<u>Paint</u> 1. Liquid	Leave sample in original container, if possible. If transfer is necessary, pour cautiously, being careful not to spill any of the sample.	Place label with all pertinent data on the container.	All if in good container; otherwise, up to 4 ounces. An original unopened container up to 1 gallon for standard.	Pack to prevent undue breakage or spillage.	Used to determine texture and content for comparison.
2. Chips	Handle with tweezers or scoop chips with a piece of paper. Chips should be collected as is to keep them intact.	Mark the sealed container with pertinent data.	All of specimen. When possible, an adequate amount of material from suspected object to be used as standard.	Place in pillbox or other rigid container.	Chips found at scene may be traced to suspect and used for comparison.

## CRIME LABORATORY REQUEST FORM

Evidence submitted to a laboratory for analysis must be accompanied by a Department of the Navy Forensic Examination Request, OPNAV Form 5527/15. This form will serve as a letter of transmittal for the evidence. It is not necessary to prepare a separate letter of transmittal for W-3 government laboratories such as the FBI Laboratory.

DEPARTMENT OF THE NAVY FORENSIC EXAMINATION REQUEST		1. CASE CONTROL NUMBER (CCN)
		2. PRIORITY OF EXAM <input type="checkbox"/> Routine <input type="checkbox"/> Urgent <input type="checkbox"/> As soon as possible
3. TO (Include Attention Line)	4. FROM	
5. CASE FACTS (Brief description pertaining to the requested examination which may assist laboratory personnel in processing the evidence. Include date and place of crime.)		
6. EVIDENCE SUBMITTED		
a. Item Number	b. Item Description	
7. EXAMINATIONS AND/OR COMPARISONS REQUESTED		
8. SUSPECT'S FULL NAME	9. VICTIM'S FULL NAME	
10. TYPE OF OFFENSE		
11. IS ONE COPY OF EVIDENCE CUSTODY DOCUMENT ENCLOSED? <input type="checkbox"/> Yes <input type="checkbox"/> No		
12. HAS OTHER EVIDENCE PREVIOUSLY BEEN SUBMITTED FOR THIS CASE? <input type="checkbox"/> No <input type="checkbox"/> Yes (List Lab Report Number)		
13. INVESTIGATOR'S NAME AND OFFICE PHONE NUMBER		
14. DISPOSITION OF EVIDENCE AFTER ANALYSIS/COMPARISON		
a. Item Number	b. Disposition	
15. CERTIFICATION		
I CERTIFY THAT THIS EVIDENCE HAS NOT BEEN SUBJECTED TO EXAMINATION BY OTHER EXPERTS FOR THE PROSECUTION IN THE SAME SCIENTIFIC FIELD AS REQUESTED HEREIN.		
a. Date	b. Requester Typed or Printed Name	c. Requester Signature

OPNAV 5527-15 (12-82) S/N 0107 LP 055 27-1



## APPENDIX III

# PUNITIVE ARTICLES OF THE UCMJ

Articles 77 through 134 of the UCMJ are referred to as punitive articles, which cover almost any offense or crime that can be committed. Although Article 77 is defined as a punitive article, it is not punitive in nature. *The Manual for Courts-Martial* [Part IV, Punitive Articles] contains specific information about each article. You should also consult Part IV of the *MCM* to obtain the proper specifications used when writing charges for NJP or Courts-Martial proceedings.

You must remember to establish proof that the accused committed the alleged offense. All ELEMENTS of an offense MUST be met before the accused can be charged with the offense. You should refer to the *Manual of Courts-Martial (MCM)* to establish proof of guilt.

The following chart identifies and briefly discusses each article. For brevity, the word *servicemember* is used to mean any person subject to the *UCMJ*, and *offense* is used to mean a violation punishable by the punitive articles of the *UCMJ*.

Article	Description
77	<b>Principals.</b> Any servicemember who commits an offense, or aids, abets, counsels, commands, or procures its commission, or causes an act that if done by him or her would be punishable by the punitive articles of the UCMJ is a principal.
78	<b>Accessory after the Fact.</b> A service member who, knowing that an offense has been committed, receives, comforts, or assists the offender to hinder or prevent his or her apprehension, trial, or punishment is punishable as a court-martial may direct.
79	<b>Conviction of lesser included offenses.</b> An accused maybe found guilty of an offense necessarily included in the offense charged or of an attempt to commit the offense charged.
80	<b>Attempt.</b> An act done with specific intent to <u>commit</u> an offense (amounting to more than mere preparation and tending), even though failing, is an attempt to commit that offense.
81	<b>Conspiracy.</b> A servicemember who conspires with any other person to commit an offense, if one or more of the conspirators does an act to effect the object of the conspiracy, is punishable as a court-martial may direct.
82	<p><b>Solicitation.</b> A servicemember who solicits or advises another or others to desert (in violation of section 885 of this title [Art. 85] or mutiny (in violation of section 894 [Art. 94]), if the offense solicited or advised is attempted or committed, is punishable with the punishment provided for the commission of the offense; but if the offense solicited or advised is not committed or attempted, he or she is punishable as a court-martial may direct.</p> <p>A servicemember who solicits or advises another or others to commit an act of misbehavior before the enemy (in violation of section 899 [Art. 99]) or sedition (in violation of section 894 [Art. 94]), if the offense solicited or advised is committed, is punishable with the punishment provided for the commission of the offense, but if the offense solicited or advised is not committed, is punishable as a court-martial may direct.</p>
83	<p><b>Fraudulent enlistment, appointment or separation.</b> An act of procuring enlistment or appointment in the Armed Forces through deliberate false representation or deliberate concealment of qualifications for that enlistment or appointment and under which pay or allowances were received.</p> <p>An act of procuring separation from the Armed Forces through false representation or deliberate concealment of eligibility for that separation is punishable as a court-martial may direct.</p>
84	<b>Effecting unlawful enlistment, appointment or separation.</b> A servicemember who effects an enlistment or appointment in or a separation from the Armed Forces of any person who is known by him or her to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order is punishable as a court-martial may direct.
85	<p><b>Desertion.</b> Any servicemember who without authority leaves his unit, organization, or place of duty with intent to stay away permanently is guilty of desertion.</p> <p>A servicemember who deserts or attempts to desert, if the offense is committed in time of war, is punishable by death or such other punishment as a court-martial may direct; but if the desertion or attempt to desert occurs at any other time, by such punishment other than death that a court-martial may direct.”</p>
86	<b>Absence without leave.</b> Any member of the Armed Forces who without authority fails to go to his or her appointed place of duty at the time prescribed, or absents himself or herself and remains absent from the unit, organization, or place of duty at which required to be at the time required is absent without leave and is punishable as a court-martial may direct.



Article	Description
87	<b>Missing movement.</b> A servicemember who through neglect or design misses the movement of a ship, aircraft, or unit with which he or she is required in the course of duty to move is punishable as a court-martial may direct.
88	<b>Contempt toward officials.</b> Any commissioned officer who uses contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of Transportation, or the Governor or legislature of any State, Territory, Commonwealth, or possession in which he is on duty or present is guilty of contempt toward that official and is punishable as a court-martial may direct.
89	<b>Disrespect toward a superior commissioned officer.</b> A servicemember who behaves with disrespect toward his or her superior commissioned officer is punishable as a court-martial may direct.
90	<b>Assaulting or willfully disobeying superior commissioned officer.</b> A servicemember who strikes his or her superior commissioned officer or draws or lifts up any weapon or offers any violence against that officer or willfully disobeys a lawful command of that superior commissioned officer while the officer is in the execution of his or her office, if the offense is committed in time of war, is punishable by death or such other punishment as a court-martial may direct; if the offense is committed at any other time, by such punishment other than death that a court-martial may direct.
91	<b>Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer.</b> Any warrant officer or enlisted member who strikes or assaults a warrant officer, noncommissioned officer, or petty officer; who willfully disobeys a lawful order of a warrant officer, noncommissioned officer, or petty officer; or who treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer while that officer is in the execution of his office is guilty of insubordination and is punishable as a court-martial may direct.
92	<b>Failure to obey order or regulation.</b> A servicemember who (1) violates or fails to obey any lawful general order or regulation, (2) having knowledge of any other lawful order issued by a member of the Armed Forces, which it is his duty to obey, fails to obey the order or (3) is derelict in the performance of his duties is punishable as a court-martial may direct.
93	<b>Cruelty and maltreatment.</b> A servicemember who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders is punishable as a court-martial may direct.
94	<p><b>Mutiny and sedition.</b> A servicemember who, with intent to usurp or override lawful military authority, refuses, with any other person, to obey orders or otherwise do his or her duty or creates any violence or disturbance is guilty of mutiny.</p> <p>A servicemember who with intent to cause the overthrow or destruction of lawful civil authority, creates, with any other person, revolt, violence, or other disturbance against that authority is guilty of sedition.</p> <p>A servicemember who fails to do his or her utmost to prevent, or suppress, a mutiny or sedition being committed in his or her presence, or who fails to take all reasonable means to inform his or her superior commissioned officer or commanding officer of a mutiny or sedition that is known or believed to be taking place, is guilty of a failure to suppressor report a mutiny or sedition.</p> <p>A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppressor report a mutiny or sedition is punishable by death or such other punishment as a court-martial may direct.</p>

Article	Description
95	<b>Resistance breach of arrest and escape.</b> A servicemember who resists apprehension or breaks arrest or who escapes from custody or confinement is punishable as a court-martial may direct.
96	<b>Releasing prisoner without proper authority.</b> A servicemember who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design, allows any prisoner to escape, is punishable as a court-martial may direct, whether or not the prisoner was committed in strict compliance with law.
97	<b>Unlawful detention.</b> A servicemember who, except as provided by law, apprehends, arrests, or confines any person is punishable as a court-martial may direct.
98	<b>Noncompliance with procedural rules.</b> A servicemember who is responsible for unnecessary delay in the disposition of any case of a person accused of an offense, or who knowingly and intentionally fails to enforce or comply with any provision of the articles regulating the proceedings before, during, or after trial of an accused is punishable as a court-martial may direct.
99	<p><b>Misbehavior before the enemy.</b> Any servicemember who before or in the presence of the enemy—</p> <ol style="list-style-type: none"> <li>1. runs away;</li> <li>2. shamefully abandons, surrenders, or delivers up any command, unit, place, or military property that it is his duty to defend;</li> <li>3. through disobedience, neglect, or intentional misconduct, endangers the safety of any such command, unit, place, or military property;</li> <li>4. casts away his arms or ammunition;</li> <li>5. is guilty of cowardly conduct;</li> <li>6. quits his place of duty to plunder or pillage;</li> <li>7. causes false alarms in any command, unit, or place under control of the Armed Forces;</li> <li>8. willfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his duty so to encounter, engage, capture, or destroy; or</li> <li>9. does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the Armed Forces belonging to the United States or their allies when engaged in battle;</li> </ol> <p>is punishable by death or such other punishment as a court-martial may direct.</p>
100	<b>Subordinate compelling surrender.</b> A service member who compels or attempts to compel a commander of military property or of any body of members of the Armed Forces to give such property up to the enemy or to abandon it, or who strikes the colors or flag to the enemy without proper authority is punishable by death or such other punishment as a court-martial may direct.
101	<b>Improper use of countersign.</b> A servicemember who in time of war discloses the parole or countersign to any person not entitled to receive it, or who, having knowledge that he or she was authorized and required to give the parole or countersign, gives a false parole or countersign to a person entitled to receive and use it is punishable by death or such other punishment as a court-martial may direct.

Article	Description
102	<b>Forcing a safeguard.</b> A servicemember who forces a safeguard shall suffer death or such other punishment as a court-martial may direct.
103	<p><b>Captured or abandoned property.</b> All persons must secure all public property taken from the enemy for the service of the United States, and must give notice and turnover to the proper authority without delay all captured or abandoned property in their possession, custody, or control. Any person who</p> <ol style="list-style-type: none"> <li>1. fails to carry out prescribed duties;</li> <li>2. buys, sells, trades, or in any way deals in or disposes of captured or abandoned property and receives or expects profit, benefit, or advantage to self or another directly or indirectly connected with self; or</li> <li>3. engages in looting or pillaging;</li> </ol> <p>is punishable as a court-martial may direct.</p>
104	<b>Aiding the enemy.</b> A servicemember who aids, or attempts to aid, the enemy with arms, ammunition, supplies, money, or other things; or without proper authority, knowingly harbors or protects or gives intelligence to or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly, shall suffer death or such other punishment as a court-martial or military commission may direct.
105	<b>Misconduct as a prisoner.</b> A servicemember who, while in the hands of the enemy in time of war, for the purpose of securing favorable treatment by his captors, acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others of whatever nationality held by the enemy as civilian or military prisoners, or while in a position of authority over such persons maltreats them without justifiable cause is punishable as a court-martial may direct.
106	<b>Spies.</b> A servicemember who in time of war is found lurking as a spy or acting as a spy in or about any place, vessel, or aircraft within the control or jurisdiction of any of the Armed Forces, or in or about any shipyard, any manufacturing or industrial plant, or any other place or institution engaged in work in aid of the prosecution of the war by the United States, or elsewhere, shall be tried by a general court-martial or by a military commission and on conviction shall be punished by death.
106a	<b>Espionage.</b> Any person who, with intent or reason to believe that information or an article is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, either directly or indirectly, the information or article, is punishable as a court-martial may direct, except that if the accused is found guilty of an offense that directly concerns (a) nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large scale attack (b) war plans, (c) communications intelligence or cryptographic information, or (d) any other major weapons system or major element of defense strategy, the accused shall be punished by death or such other punishment as a court-martial may direct.
107	<b>False official statements.</b> A servicemember who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement, knowing it to be false, is punishable as a court-martial may direct.

Article	Description
108	<p><b>Military property of the United States-sale, loss, damage destruction, or wrongful disposition.</b> A servicemember who, without proper authority-</p> <ol style="list-style-type: none"> <li>1. sells or otherwise disposes of:</li> <li>2. willfully or through neglect damages, destroys, or loses; or</li> <li>3. willfully or through neglect suffers to be lost, damaged, destroyed, sold or wrongfully disposed of, any military property of the United States, is punishable as a court-martial may direct.</li> </ol>
109	<p><b>Property other than military property of the United States-waste, spoilage or destruction.</b> A servicemember who willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States shall be punished as a court-martial may direct.</p>
110	<p><b>Improper hazarding of vessel.</b> A servicemember who willfully and wrongfully hazards or suffers to be hazarded any vessel of the Armed Forces shall suffer death or such other punishment as a court-martial may direct.</p> <p>Any servicemember who negligently hazards or suffers to be hazarded any vessel of the Armed Forces shall be punished as a court-martial may direct.</p>
111	<p><b>Drunken or reckless driving.</b> A servicemember who operates any vehicle while drunk or in a reckless or wanton manner, or while impaired by a substance described in section 912a(b) of this title (Article 112a(b)), is punishable as a court-martial may direct.</p>
112	<p><b>Drunk on duty.</b> A servicemember other than sentinel or look-out, who is found drunk on duty is punishable as a court-martial may direct.</p>
112a	<p><b>Wrongful use possession, etc., of controlled substances.</b> Any servicemember who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the Armed Forces a substance described in subsection (b) of this article is punishable as a court-martial may direct.</p> <p>The substances referred to in subsection (a) are the following:</p> <ol style="list-style-type: none"> <li>(1) opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, and marijuana, and any compound or derivative of any such substance.</li> <li>(2) Any substance not specified in clause (1) that is listed on a schedule of controlled substances prescribed by the President for the purposes of this article.</li> <li>(3) Any other substance not specified in clause (1) or contained on a list prescribed by the President under clause (2) that is listed in Schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).</li> </ol>
113	<p><b>Misbehavior of sentinel or lookout.</b> Any sentinel or lookout who is found drunk or sleeping at his or her post, or leaves it before being regularly relieved, shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct; if the offense is committed at any other time, by such punishment other than death as a court-martial may direct.</p>

Article	Description
114	<b>Dueling.</b> A servicemember who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, is punishable as a court-martial may direct.
115	<b>Malingering.</b> Any servicemember who for the purpose of avoiding work, duty, or service feigns illness, physical disablement, mental lapse or derangement; or intentionally inflicts self-injury; is punishable as a court-martial may direct.
116	<b>Riot or breach of peace.</b> A servicemember who causes or participates in any riot or breach of the peace is punishable as a court-martial may direct.
117	<b>Provoking speeches or gestures.</b> A servicemember who uses provoking or reproachful words or gestures towards any other person is punishable as a court-martial may direct.
118	<p><b>Murder.</b> A servicemember who, without justification or excuse, unlawfully kills a human being, when he or she—</p> <ol style="list-style-type: none"> <li>1. has a premeditated design to kill;</li> <li>2. intends to kill or inflict great bodily harm;</li> <li>3. is engaged in an act that is inherently dangerous to others and evidences a wanton disregard of human life;</li> <li>4. is engaged in the perpetration or attempted perpetration of burglary, sodomy, rape, robbery, or aggravated arson;</li> </ol> <p>is guilty of murder, and shall suffer such punishment as a court-martial may direct, except that if found guilty under (1) or (4), shall suffer death or imprisonment for life as a court-martial may direct.</p>
119	<p><b>Manslaughter.</b> Any servicemember who, with an intent to kill or inflict great bodily harm, unlawfully kills a human being in the heat of sudden passion caused by adequate provocation is guilty of voluntary manslaughter and shall be punished as a court-martial may direct. Any servicemember who, without an intent to kill or inflict great bodily harm, unlawfully kills a human being—</p> <ol style="list-style-type: none"> <li>1. by culpable negligence; or</li> <li>2. while perpetrating or attempting to perpetrate an offense, other than those named in clause (4) of section 918 of this title (Article 118), directly affecting the person; is guilty of involuntary manslaughter and shall be punished as a court-martial may direct.</li> </ol>
120	<p><b>Rape and carnal knowledge.</b> Any servicemember who commits an act of sexual intercourse with a female not his wife, by force and without her consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.</p> <p>Any servicemember who, under circumstances not amounting to rape, commits an act of sexual intercourse with a female-not his wife-who has not attained the age of 16 years, is guilty of carnal knowledge and is punishable as a court-martial may direct.</p> <p>Penetration, however slight, is sufficient to complete either of these offenses.</p>

Article	Description
121	<p><b>Larceny and wrongful appropriation.</b> A servicemember who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or article of value of any kind-</p> <p>1. with intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of any person other than the owner, steals that property and is guilty of larceny;</p> <p>2. with intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his or her own use or the use of any person other than the owner, is guilty of wrongful appropriation.</p> <p>Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial may direct.</p>
122	<p><b>Robbery.</b> A servicemember who with intent to steal takes anything of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or future injury to his person or property or to the person or property of a relative or member of his family or of anyone in his company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct.</p>
123	<p><b>Forgery.</b> A servicemember who with intent to defraud falsely, makes or alters any signature to, of any part of, any writing that would, if genuine, apparently impose a legal liability on another or change his legal right or liability to his prejudice; or utters, offers, issues, or transfers such a writing, known by him to be so made or altered; is guilty of forgery and shall be punished as a court-martial may direct.</p>
123a	<p><b>Making, drawing, or uttering check, draft, or order without sufficient funds.</b> A servicemember who, for the procurement of any article or thing of value, with intent to defraud; or for the payment of any past due obligation, or for any other purpose, with intent to deceive; makes, draws, utters, or delivers any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft, or order in full upon its presentment, shall be punished as a court-martial may direct. The making, drawing, uttering, or delivering by a maker or drawer of a check, draft, or order, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in the drawee's possession or control is prima facie evidence of his intent to defraud or deceive and of his knowledge of insufficient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within 5 days after receiving notice, orally or in writing, that the check draft, or order was not paid on presentment. In this section, the word <i>credit</i> means an arrangement or understanding, expressed or implied, with the bank or other depository for the payment of that check draft, or order.</p>
124	<p><b>Maiming.</b> A servicemember who, with intent to injure, disfigure, or disable, inflicts upon another an injury that seriously disfigures by any mutilation thereof; destroys or disables any member or organ of his or her body; or seriously diminishes the physical vigor by the injury of any member or organ; is guilty of maiming and shall be punished as a court-martial may direct.</p>
125	<p><b>Sodomy.</b> A service member who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense. Any person found guilty of sodomy shall be punished as a court-martial may direct.</p>

Article	Description
126	<p><b>Arson.</b> Any servicemember who willfully and maliciously burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, and knows the structure is occupied, is guilty of aggravated arson and shall be punished as a court-martial may direct.</p> <p>Any servicemember who willfully and maliciously burns or sets fire to the property of another, except as provided above, is guilty of simple arson and shall be punished as a court-martial may direct.</p>
127	<p><b>Extortion.</b> A servicemember who communicates threats to another person with the intention to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial may direct.</p>
128	<p><b>Assault.</b> Any servicemember who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.</p> <p>Any servicemember who–</p> <ol style="list-style-type: none"> <li>1. commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm,</li> <li>2. commits an assault and intentionally inflicts grievous bodily harm, with or without a weapon,</li> </ol> <p>is guilty of aggravated assault and shall be punished as a court-martial may direct.</p>
129	<p><b>Burglary.</b> A servicemember who, with intent to commit an offense punishable under sections 918-928 of this title (Articles 118-128), breaks and enters, in the nighttime, the dwelling of another, is guilty of burglary and shall be punished as a court-martial may direct.</p>
130	<p><b>Housebreaking.</b> A servicemember who unlawfully enters the building or structure of another with intent to commit a criminal offense therein is guilty of housebreaking and shall be punished as a court-martial may direct.</p>
131	<p><b>Perjury.</b> A servicemember who, in a judicial proceeding or in a course of justice, willfully and corruptly–</p> <ol style="list-style-type: none"> <li>1. upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or</li> <li>2. in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of Title 28, United States Code, subscribes any false statement material to the issue or matter of inquiry;</li> </ol> <p>is guilty of perjury and shall be punished as a court-martial may direct.</p>

Article	Description
132	<p><b>Frauds against the United States.</b> A servicemember–</p> <ol style="list-style-type: none"> <li>1. who, knowing it to be false or fraudulent– <ol style="list-style-type: none"> <li>a. makes any claim against the United States or any officer thereof; or</li> <li>b. presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States or any officer thereof;</li> </ol> </li> <li>2. who, for the purpose of obtaining the approval, allowance, or payment of any claim against the United States or any officer thereof– <ol style="list-style-type: none"> <li>a. makes or uses any writing or other paper, knowing it to contain any false or fraudulent statements;</li> <li>b. makes any oath to any factor to any writing or other paper, knowing the oath to be false; or</li> <li>c. forges or counterfeits any signature upon any writing or other paper, or uses any such signature, knowing it to be forged or counterfeited;</li> </ol> </li> <li>3. who, having charge, possession, custody, or control of any money, or other property of the United States, furnished or intended for the Armed Forces thereof, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he receives a certificate or receipt; or</li> <li>4. who, being authorized to make or deliver any paper certifying the receipt of any property of the United States furnished or intended for the Armed Forces thereof, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States, shall upon conviction, be punished as a court-martial may direct.</li> </ol>
133	<p><b>Conduct unbecoming an officer and gentleman.</b> Any commissioned officer, cadet, or midshipman who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.</p>
134	<p><b>General article.</b> Though not specifically mentioned in this article, all disorders and neglects to the prejudice of good order and discipline in the Armed Forces, all conduct of a nature to bring discredit upon the Armed Forces, and crimes and offenses not capital, of which persons subject to the UCMJ may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. Note: See the <i>MCM</i> for the specific sections of Article 134 that may apply.</p>



## APPENDIX IV

# REFERENCES USED TO DEVELOP THE TRAMAN

**NOTE:** Although the following references were current when this TRAMAN was published, their continued currency cannot be assured. You, therefore, need to be sure you are studying the latest revision.

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